

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

THOMAS KENDRICKS,

Plaintiff,

v.

SHEREE BOWICK, Case Manager, MCF-Red Wing, in her individual and official capacity,
SGT. BRIAN BOULDAN, MCF-Red Wing, in his individual and official capacity,
LT. K. TITUS, MCF-Red Wing, in her individual and official capacity,
OTIS ZANDER, Warden, MCF-Red Wing, in his individual and official capacity,
JOHN DOE #1, Officer of Special Investigations, Minnesota Department of Corrections, in his individual and official capacity,
JOHN DOE #2, Officer of Special Investigations, Minnesota Department of Corrections, in his individual and official capacity,
TOM ROY, Commissioner, Minnesota Department of Corrections, in his individual and official capacity,
MINNESOTA DEPARTMENT OF CORRECTIONS, in its individual and official capacity.

Defendants.

Case No. 16-cv-0187 (ADM/FLN)

REPORT AND RECOMMENDATION

Plaintiff Thomas Kendricks commenced this action by filing a complaint seeking relief under 42 U.S.C. § 1983. He did not pay any filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). See Docket No. 2. Because

Kendricks is a prisoner, the Court ordered him to pay an initial partial filing fee of \$21.67. Docket No. 4. The Court has now received a letter from Kendricks dated March 29, 2016 in which he states that he would like to “voluntarily dismiss” his case. Docket No. 8. Because no defendant has filed any answer or other response to Kendricks’ complaint, Kendricks is entitled to voluntarily dismiss this action, as a matter of course, pursuant to Fed. R. Civ. P. 41(a). Therefore, Kendricks’ letter of March 29, 2016, will be construed to be a request for voluntary dismissal pursuant to Rule 41(a), and the Court will recommend that such request be granted, and that this action be summarily dismissed without prejudice. The Court will further recommend that Kendricks’ pending IFP application be denied as moot.

RECOMMENDATION

Based upon the above, and upon all of the files, records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff’s application to proceed *in forma pauperis* (Docket No. 2) be DENIED AS MOOT;
2. Plaintiff’s letter dated March 29, 2016 (Docket No. 8) be construed as a request for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a), and that such request be GRANTED; and
3. This action be summarily DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 41(a).

Dated: April 8, 2016

s/Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.